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Atty Docket: 3Com 3422-1

JUN 13 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Javad Razavilar et al.  
Application No.: 09/865,120  
Confirmation No.: 3029  
Filed: 24 May 2001  
Title: Method And Apparatus For Seamless  
Mobility With Layer Two Assistance

Group Art Unit: 2681  
Examiner: David Robert Vincent  
CUSTOMER NO.: 22470

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF INVENTORS JAVAD RAZAVILAR AND  
BARANI SUBBIAH TO REMOVE MOON ET AL. AS A REFERENCE**

The undersigned inventors of record, Javad Razavilar and Barani  
Subbiah, declare as follows:

1. We are the named inventors of the invention entitled "Method And Apparatus For Seamless Mobility With Layer Two Assistance" disclosed and claimed in U.S. patent application serial number 09/865,120 filed on 24 May 2001 and captioned above. All of the statements made herein are based on personal knowledge. The undersigned could competently testify thereto if called as a witness.
2. This declaration is directed toward predating the Moon et al. U.S. Pat. No 6,804,532 B1, which was filed December 22, 2000, and removing it as a reference.
3. Attached as exhibit A is a true and correct copy of a paper authored by a student intern who worked at our direction. The paper is dated prior to December 22, 2000 and describes work completed even earlier, also prior to December 22, 2000.
4. Exhibit A is evidence that we conceived of our invention as described in independent claims 1 (as amended), 42, 74, 106, and 139 and reduced those

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elements to practice prior to December 22, 2000. Figure 7 of the student paper corresponds to application FIG. 1. The figure correspondences are:

| <b>Pre-Dec. 22, 2000<br/>Student Paper Figures</b> | <b>Patent Application<br/>FIGS.</b> |
|--|-------------------------------------|
| 7  | 1                                   |
| 1  | 2                                   |
| 5  | 3                                   |
| 6  | 4A-B                                |
| 8  | 5A-B                                |
| 9  | 6A-B                                |
| 2  | 7                                   |
| 3  | 8                                   |
| 4  | 9                                   |

Similarities between the application and the student paper will be apparent to a reader.

5. Elements disclosed in our application and described in exhibit A include:

(a) A method of handing off a session from a first access technology to a second access technology based on a quality of service metric, including:

(b) monitoring at a mobile terminal, during a session, a quality of service metric describing a connection via a first access technology, the first access technology including a first entity having an IP stack;

(c) initiating a connection via a second access technology upon the monitored quality of service metric crossing a threshold, while continuing the connection via the first access technology, wherein the second access technology utilizes a different physical layer than the first access technology and includes a second entity having an IP stack;

(d) signaling the first entity to conduct a hand off of the session with the second entity; and

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(e) modifying routing tables at the mobile terminal to use the connection via the second access technology to continue the session;

(f) handoffs both directions between a WLAN that was relatively high in bandwidth to a WWAN that was relatively low in bandwidth;

6. The technology depicted in exhibit A has not been abandoned or suppressed. The aspects discussed above are disclosed in our patent application.

The undersigned declares under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. I make this declaration with the understanding and knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 U.S.C. and that making willful false statements would jeopardize the validity of my application and any patents issuing thereon.

Executed this 9 day of June, 2005 in San Diego,  
California.

Javad Razavilar

Javad Razavilar

Executed this \_\_\_\_ day of \_\_\_\_\_, 2005 in \_\_\_\_\_,  
California.

\_\_\_\_\_  
Barani Subbiah

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(e) modifying routing tables at the mobile terminal to use the connection via the second access technology to continue the session;

(f) handoffs both directions between a WLAN that was relatively high in bandwidth to a WWAN that was relatively low in bandwidth;


6. The technology depicted in exhibit A has not been abandoned or suppressed. The aspects discussed above are disclosed in our patent application.

The undersigned declares under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. I make this declaration with the understanding and knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 U.S.C. and that making willful false statements would jeopardize the validity of my application and any patents issuing thereon.

Executed this \_\_\_\_ day of \_\_\_\_, 2005 in \_\_\_\_\_,  
California.

\_\_\_\_\_  
Javad Razavilar

Executed this \_\_\_\_ day of \_\_\_\_, 2005 in \_\_\_\_\_,  
California.

  
\_\_\_\_\_  
Barani Subblah

SAN JOSE, CA, USA  
6/5/2005